

**United States District Court**  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JULIAN P. GUTIERREZ III,  
TDCJ No. 2063107

v.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 3:22-CV-470-S-BH

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

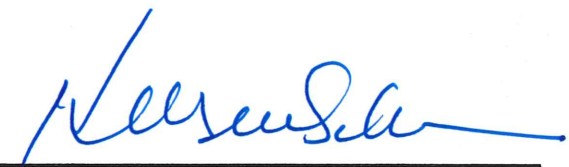
The United States Magistrate Judge made findings, conclusions, and a recommendation in this case [ECF No. 4]. No objections were filed. The District Court reviewed the proposed findings, conclusions, and recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

The Court therefore **TRANSFERS** Petitioner's successive 28 U.S.C. § 2254 habeas application to the United States Court of Appeals for the Fifth Circuit for appropriate action, pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002), and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).

Because the Court is transferring the application to the Fifth Circuit, a certificate of appealability (a COA) is not necessary. *See United States v. Fulton*, 780 F.3d 683, 688 (5th Cir. 2015) (“[A] transfer order under 28 U.S.C. § 1631 is not a final order within the meaning of § 2253(c)(1)(B), and the appeal of such an order does not require a COA.”); *Guel-Rivas v. Stephens*, 599 F. App'x 175, 175 (5th Cir. 2015) (per curiam) (applying *Fulton*'s holding to transfer of a successive Section 2254 application).

**SO ORDERED.**

SIGNED April 14, 2022.

  
UNITED STATES DISTRICT JUDGE